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10/806,846	03/23/2004	Francois Bourdoncle	13547-003	2479

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EXAMINER
BEITT, JACOB F

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>27 March 2009</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1 and 8-14</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1 and 8-14</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>5/5/09</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 27 March 2009 has been entered.

Remarks

2.   In response to communications filed on 27 March 2009, claims 1 and 8 have been

amended per the applicant's request. Claims 1 and 8-14 are presently pending in the application.

Response to Amendment

3.   According to the applicant's specification, it appears that the referenced document can be

one of a frame (figure 1, reference characters 2 and 4) or a document such as a audio or image

file that is referenced in an html document (figure 1, reference characters 8, 10, 14, and 18).

With the applicant's amendment it appears that the applicant is removing the embodiment where

the referenced document can be a frame. If alternative elements are positively recited in the

specification, they may be explicitly excluded in the claims. See In re Johnson, 558 F.2d 1008,

1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole,

necessarily described the part remaining."). See also Ex parte Grasselli, 231 USPQ 393 (Bd.

App. 1983), aff'd mem., 738 F.2d 453 (Fed. Cir. 1984). Therefore, in view of the negative

limitation made by the applicant in the claim ("other than explicit frame references"), the frame

embodiment is believed to have been deliberately removed by the applicant. If the applicant

believes the examiner is making this analysis in error, the applicant is invited to make such

statements on the record.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

5.   Claims 8 and 9 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Claims 8 and 9 are directed towards a "search engine"

which one of ordinary skill in the art would interpret to be a software program. Software is not

one of the four categories of invention and therefore this claim is not statutory. Software is not a

series of steps or acts and thus is not a process. Software is not a physical article or object and as

such is not a machine or manufacture. Software is not a combination of substances and therefor

not a composition of matter.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   Claims 1, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Snyder (U.S. patent No. 6,643,641 B1) in view of Frankel et al., "WebSeer: An Image Search

Engine for the World Wide Web".

As to claim 1, Snyder teaches a computer-implemented process for searching among a

collection of documents, the collection comprising a referencing document and a referenced

document referred to in the referencing document by one or more links other than explicit frame

references, the process comprising:

aggregating the referencing document and the referenced document referenced in the

referencing document to create an aggregate document, the aggregate document not existing as a

document in said collection of documents, whereby said aggregate document is associated with

content capable of being indexed, said content being provided by the referenced document and

the referencing document (see column 14, lines 22-65, indexes or categorizes information on

web pages and "The website content, including any referenced image files, must be

downloaded... and rendered by the rendering Agent B);

indexing said created aggregate document, based on index terms contained in the

referencing document and the referenced document forming the aggregate document, to generate

an index of aggregated documents (column 14, lines 22-40, indexes or categorizes information

on web pages);

searching by operating on said index (see column 14, lines 34-40, subject page is selected

in a search); and

returning, as a result of the searching step, a located aggregate document (see column 14,

lines 41-50, search results appear on the user's browser).

Snyder does not distinctly disclose indexing the referenced document forming the
aggregate document when the referenced document is not a frame reference.

Frankel et al. teaches indexing both the referencing and the referenced document when
the document is not a frame reference, see page 3, "Cues from the Text and HTML Source
Code"; see page 4, "Cues from the Image Content"; and see page 7, number 3; and see page 7,
number 3. Therefore, it would have been obvious to one having ordinary skill in the art at the
time the invention was made to have modified Snyder to include the teachings of Frankel
because this would allow for users greater ability to search for images using a web search
engine..

As to claim 10, Snyder teaches further comprising the step of displaying an aggregate
document with a content of the referencing document; and information or attribute of the
referenced document (see column 9, lines 57-61).

As to claim 14, Snyder teaches wherein the process comprises, for a result, the display of
content of the referencing document; information or attribute of a first document referenced in
the referencing document; and information attribute of a second document referenced in the
referencing document (see column 9 line 57-61, there being multiple referenced image files, the
information of each is incorporated into the displayed snapshot, see claim 10 rejection).

8.   Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in

view of Frankel et al. as applied to claims 1, 10, and 14 above, and in further view of Bourdoncle

et al. (U.S. patent application No. 2002/0052894).

        As to claim 8, Snyder teaches a search engine for searching among a collection of

documents, the collection comprising a referencing document and a referenced document

referred to in the referencing document by one or more the search engine comprising an inverted

index table of aggregate documents, wherein an entry in the index table is associated to with

aggregate document that aggregates the referencing document and the referenced document, the

aggregate document not existing in said collection of documents, whereby said aggregate

document is associated with content capable of being indexed, said content provided by the

referenced document and the referencing document.

        Snyder does not distinctly disclose indexing the referenced document forming the

aggregate document when the referenced document is not a frame reference.

        Frankel et al. teaches indexing both the referencing and the referenced document when

the document is not a frame reference, see page 3, "Cues from the Text and HTML Source

Code"; see page 4, "Cues from the Image Content"; and see page 7, number 3; and see page 7,

number 3. Therefore, it would have been obvious to one having ordinary skill in the art at the

time the invention was made to have modified Snyder to include the teachings of Frankel

because this would allow for users greater ability to search for images using a web search engine.

        Snyder as modified, still does not distinctly disclose using an inverse index.

        However, this is taught by Bourdoncle et al. in paragraph 42. Therefore, it would have

been obvious to one of ordinary skill in the art at the time of the invention to create an inverted

index the aggregate documents based on as is it provides the advantage of supporting ranking

and other features as listed in the last sentence of paragraph 42 of Bourdoncle.

As to claim 9, the applicant is directed to the citations for claim 10 above.

9.   Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder in

view of Frankel et al. as applied to claims 1, 10, and 14 above, and in further view of Google

Hacks.

As to claim 11, Snyder as modified teaches the collection having at least two referenced

documents as described above with regards to claim 14.

Snyder does not distinctly disclose a step of selecting a subset of the referenced

documents. This is taught however by Google Hacks (in hack 31). The following is an excerpt

form Google hacks:

Google Images offers a few special syntaxes:

intitle:

        Finds keywords in the page title. This is an excellent way to narrow down search results.

filetype:

        Finds pictures of a particular type. This only works for JPEG and GIF, not BMP, PNG, or any number of other

        formats Google doesn't index. Note that searching for filetype:jpg and filetype:jpeg will get you different results,

        because the filtering is based on file extension, not some deeper understanding of the file type.

inurl:

        As with any regular Google search, finds the search term in the URL. The results for this one can be confusing. For

        example, you may search for inurl:cat and get the following URL as part of the search result:

        www.example.com/something/somethingelse/something.html

Hey, where's the cat? Because Google indexes the graphic name as part of the URL, it's probably there. If the page above includes a graphic named *cat.jpg*, that's what Google is finding when you search for inurl:cat. It's finding the cat in the name of the picture, not in the URL itself.

site:

As with any other Google web search, restricts your results to a specified host or domain. Don't use this to restrict results to a certain host unless you're really sure what's there. Instead, use it to restrict results to certain domains. For example, search for football.site:uk and then search for football.

site:com is a good example of how dramatic a difference using site: can make.

The above allows users to display the referenced images from a referencing page, and select a subset by specifying a file type.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Snyder, as modified, to include the teachings of Google Hacks because these teachings allow the selection of a subset of referenced documents do to the advantage of narrowing the search results.

As to claim 12, Snyder as modified teaches the collection having at least two referenced documents as described above with regards to claim 14.

Snyder does not distinctly disclose a step of sorting the referenced documents.

The rejection of claim 11 shows displaying the referenced documents, and the step of sorting is taught by Google Hacks(in hack 32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Snyder to include the teachings of Google Hacks because these teachings would aid in the location of the desired results.

As to claim 13, Snyder as modified does not distinctly disclose wherein the information or attribute comprise a link to the referenced document.

Google Hacks teaches this, see hack 31. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Snyder as modified, to include the teachings of Google hacks because this would allow quick access the to document.

Response to Arguments

10.   Applicant's arguments filed 37 March 2009 have been fully considered but are moot in view of the new grounds of rejection found above.

Conclusion

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob F. Bétit whose telephone number is (571)272-4075. The examiner can normally be reached on Monday through Friday 9:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571) 272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Jacob F Bétit/
Examiner, Art Unit 2169

jfb
5 Jun 2009